IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

WP(C).No. 26775 of 2005(K)

PETITIONER:

DR.SOMAN KANNACHAM KUTTIKUNI,
S/O.GANGADHARAN,A GED 35 YEARS,
KUNNACHAN KUTTIKUNI HOUSE, KATALOOR P.O.
KOYILANDY VIA, KOZHIKODE.

BY ADV. SRI.M.P.MOHAMMED ASLAM

RESPONDENTS:

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1. KANNUR UNIVERSITY, REPRESENTED BY
REGISTRAR MANGATTUPARAMBA, KANNUR UNVIERSITY,
KANNUR UNIVERSITY CAMPUS P.O. KANNUR.

2. THE VICE CHANCELLOOR, KANNUR UNIVERSITY,
KANNUR UNIVERSITY CAMPUS P.O. KANNUR.

3. DR.CHANDRAMOHAN, VICE CHANCELLOR,
KANNUR UNIVERSITY, KANNUR UNIVERSITY CAMPUS P.O.
KANNUR.

4. K.KUNHIKRISHNAN, PRO-VICE CHANCELLOR,
KANNUR UNIVERSITY, KANNUR UNIVERSITY CAMPUS PO,
KANNUR.

5. DR.B.ANANANDA BANU, REGISTRAR,
KANNUR UNIVERSITY, MANGATTUPARAMBA, KANNUR
UNIVERSITY, KANNUR UNIVERSITY CAMPUS P.O.
KANNUR.

6. PROF.T.B. VENUGOPALAPANICKER,
DEAN, FACULTY OF HUMANITIES, KANNUR UNVIERSITY,
DEPARTMENT OF MALAYAMAL, CALICUT UNIVERSITY,
CALICUT UNIVERSITY P.O. THENHIPPALAM,
MALAPPURAM DISTRICT.

7. DR.D.BENJAMIN, DEPARTMENT OF MALAYALAM,
UNIVERSITY OF KERALA, KARIAVATTOM P.O.
THIRUVANANTHAPURAM.

8. DR.S.RAJASEKHARAN, DEPARTMENT OF
MALAYALAM, SRI SANKARACHARYA SANSKRIT UNIVERSITY,
REGIONAL CENTRE, THIRUVANANTHAPURAM.

9. ANILA.O. P.P.HOUSE, P.P. VII/490,
TALAP HOUSING COLONY, KANNUR 4.

10. MANJULA K.V. KUNIYIL VAZHAYIL HOUSE,
P.O.CHAMPAD, ARAYAKKOOL, VIA.THALASSERY,
KANNUR DISTRICT.

ADDL.R11. REEJA.V., VILAYIL VEEDU, THOTTAKKADU,
NEDUMPARAMBU.P.O., ALAMCODE, THIRUVANANTHAPURAM.

BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.M.K.PRADEEPKUMAR
SRI.PETER JOSE CHRISTO
SRI.M.K.CHANDRA MOHANDAS
SRI. K.JAJU BABU, SC, KANNUR UNIVERSITY
SRI.M.SASEENDRAN,SC,KANNUR UNIVERSITY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ALONG WITH WPC NO. 29172 OF 2005 ON 28/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP.26775/2005)

EXT.P1: TRUE COPY OF NOTIFICATION DT. ¼/2005.

EXT.P2: TRUE COPY OF GENERAL INSTRUCTIONS.

EXT.P3: TRUE COPY OF M.A. MALAYALAM CERTIFICATE.

EXT.P4: TRUE COPY OF PH.d CERTIFICATE.

A.K. Basheer, J.

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W.P(C) Nos. 26775 & 29172 of 2005

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Dated this the 28th day of March, 2007.

J U D G M E N T

Two unsuccessful candidates who participated in the process of selection to the post of Lecturer in Malayalam in the University of Kannur have preferred these writ petitions challenging the selection process. The short question that arises for consideration is whether the selection made by the Committee constituted by the University for this purpose is illegal or vitiated.

2. The relevant facts may be briefly noticed.

3. On April 1, 2005, the University issued Ext.P1 notification inviting applications from eligible candidates for appointment to the post of Lecturer in Malayalam along with certain other teaching posts. The post with which we are concerned is set apart for candidates belonging to Ezhava/Thiyya/Billava communities. There was one more post in the same Department which was set apart for candidates from Scheduled Caste Community.

4. It is not in dispute that the prescribed educational qualification for the post was good academic record with atleast 55% marks at the Master's level and pass in N.E.T. Since the other alternate qualifications are not relevant for the purpose of this case, I do not deem it necessary to refer to them. In this context it may also be noticed that the notification did not prescribe any minimum teaching experience.

5. The University had constituted a Selection Committee comprising the Vice Chancellor as its Chairman, a Syndicate Member,

2 outside subject experts and the Head of Department or the Professor in charge of the Department concerned. The Committee after completing the selection process prepared a ranked list in which Smt.Reeja was placed at rank No.1. Petitioner in W.P.No.26775/2005 was placed at serial No.2 and petitioner in W.P.No.29172/05 was ranked at No.3. It is contended by the petitioners that the entire selection process was totally vitiated and the Committee had overlooked and ignored the relative merit of the petitioners as compared to that of Smt.Reeja.

It is pertinent to note that the petitioners, while trying to edge out each other, have a common plank of attack against Smt.Reeja. Therefore I do not propose to consider the relative inter se merit of the petitioners as highlighted by them. The common ground of attack directed against the selection of Smt.Reeja appears to be that she had lesser or negligible teaching experience as compared to that of the petitioners. While the petitioner in W.P.No.29172/05 claims to have got nearly 4 ½ years of teaching experience, and that too at the Post Graduate level, it is pointed out that Smt.Reeja had hardly one month's teaching experience. It is also contended that both the petitioners have obtained Doctorate whereas Smt.Reeja has none to her credit. The other contention is that petitioners had several publications to their credit. Though Smt.Reeja also had some publications to her credit, the Doctorates and better teaching experience ought to have weighed in favour of the petitioners, it is contended.

7. In this context it is pertinent to note that the petitioners do not have a case that the members of the Selection Committee had any individual bias against the petitioners. Though it is vaguely alleged

that the members of the Selection Committee had gone out of their way to help Smt.Reeja, no materials have been placed before this Court to substantiate the above contention. Petitioners have averred in the writ petition that the Committee had conducted the selection process ignoring the guidelines, norms etc. and had set apart more marks for interview. Later the petitioners appear to have reconciled to the fact that the Selection Committee had followed the prescribed norms or guidelines. It is the admitted position that the Selection Committee earmarked 40 marks under various heads out of which 5 marks each were set apart for qualification, publication, teaching experience, Seminar/workshop, teaching innovations, and research while 15 marks were earmarked for interview. It has come out from the averments in the counter affidavit of respondent No.3 , the Vice Chancellor, who incidentally was the Chairman of the Selection Committee, that the petitioners and Smt.Reeja had obtained 10 marks each for interview. What appears to have tilted the balance in favour of Smt.Reeja was the 18 marks that she obtained for qualifications, publication, teaching experience, Seminar/Workshop, teaching innovation and research work, all put together. The petitioners got only 17 each under these heads. So it is seen from the counter affidavit of respondent No.3 that Smt.Reeja edged out the petitioners by 1 mark.

8. Sri.S.P.Aravindakshan Pillai appearing for Smt.Manjula (Petitioner in WP.29172/05) has laid heavy emphasis on some of the averments made by the Vice Chancellor in the counter affidavit referred to above. It is pointed out that the petitioners and Smt.Reeja having obtained equal marks for interview , there was absolutely no justification in awarding 1 mark more to Smt.Reeja under the heads of

qualifications, publication, teaching experience etc. It is the case of the petitioners that if the qualifications are to be reckoned, Smt.Reeja falls way behind the petitioners. Similarly the teaching experience also will edge her out because admittedly she had hardly one month's teaching experience, whereas Dr.Manjula had more than 4 ½ years to her credit and the petitioner in W.P.No.26775/05 had about 7 years' teaching experience. It is also contended that a perusal of the research work, Seminar/Workshop etc. ought to have convinced the Committee members that the credentials of the petitioners were far above that of Smt.Reeja.

9. It is true that neither the University nor Smt.Reeja in their respective counter affidavits had controverted the contention raised by the petitioners that they have got better teaching experience as compared to Smt.Reeja. But respondent No.2, the Vice Chancellor, in his counter affidavit has asserted that the 2 subject experts had assessed the comparative merit of the candidates in areas like publications, seminars, teaching innovations, research work etc. The Head of Department and a Syndicate member apart from the Chairman which comprised the Selection Committee, had unanimously found that Smt.Reeja was the most eligible candidate for the post.

10. It is contended by learned Standing Counsel for the University that petitioner cannot now turn round and request this Court to call upon the University to produce the materials placed before the Selection Committee and to venture into a re-appraisal of those materials. It is pointed out by the learned Standing Counsel that the Selection Committee had considered the relative merits of the candidates and had in its wisdom found that Smt.Reeja was the

suitable candidate. Such an evaluation made by the Selection Committee need not, under normal circumstances, be put under the scanner and that too under Article 226 of the Constitution unless there is any specific allegation of malafides, bias, favouritism etc.

11. I find considerable force in the above submission made by the learned Standing Counsel. As indicated earlier, there is no specific allegation of any bias or favouritism, though it is vaguely alleged that the members of the Committee went out of their way to select Smt.Reeja. I am afraid such a bald allegation cannot save the situation for the petitioners . It may be true that petitioners have got better teaching experience. It may also be true that the petitioners or atleast one of them (Smt.Manjula) has got higher or better educational qualifications. But the Selection Committee in its wisdom had found that Smt.Reeja was better suited for the post. It is trite that in the matter of selection this Court should be wary or slow in exercising its power under Article 226, when the Selection Committee chosen for the purpose, has assessed the relative merits of the candidates and completed the selection process.

12. In **Geetha** v. **Director, Rashtriya Sanskrit Sansthan** (1988 (2) KLT 579) this Court had observed thus:

> " In cases where guidelines and ascertainable standards are evolved, the procedure for grading or eliminating candidates are published. There is no occasion for this Court to make a reassessment on the basis of evaluation. In

> such cases, the opinion of the selection committee, the marks awarded by its, the ranks or grades which it assigned to the candidates are ordinarily beyond reproach. It is true that in such circumstances, this Court will not ordinarily substitute its views on the merits of the candidates for those of the committee. Nor does this Court ordinarily scrutinise the award of marks under the various items. It may be even that when marks are awarded in a lump instead of for the individual considerations separately, the court may not be justified in interfering, unless manifest illegality or abuse of power is made out.

13. In **Admission Committee C.1.1. 1995 & anr.** v. **Anand Kumar & anr.** (1998 (8) SCC 333) their Lordships of the Supreme Court had this to say:

> "....calling upon the Selection Committee to answer and justify each and every selection made, in the absence of any mala fides is to cause impossible burden upon it"..

14. Having regard to the totality of circumstances of this case, I do not find any exceptional or extra ordinary circumstance warranting interference of this Court in the selection process.

Writ Petitions fail and they are accordingly dismissed.

A.K. Basheer
Judge.

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